## UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

PHILIP NERI,	;

Petitioner, : Civ. No. 15-7837 (RBK)

v.

NJ DOC, : **OPINION** 

Respondent.

## ROBERT B. KUGLER, U.S.D.J.

Petitioner is a former state prisoner who has parole supervision for life. He is proceeding *pro se* with a petition for writ of mandamus. While not altogether clear, it appears as if petitioner is challenging the amount he is paid by the state while working he is incarcerated as he names as the respondent the New Jersey Department of Corrections. Previously, this matter was administratively terminated as petitioner had not paid the filing fee nor had he submitted an application to proceed *in forma pauperis*. Subsequently, petitioner submitted an application to proceed *in forma pauperis* such that the Clerk will be ordered to reopen this case. Petitioner's application to proceed *in forma pauperis* will be granted based on the information provided therein.

At this time, this Court will screen the petition pursuant to 28 U.S.C. § 1915(e)(2)(B) to determine whether it should be dismissed as frivolous or malicious, for failing to state a claim upon which relief may be granted or because it seeks monetary relief from a defendant who is immune from suit. For the following reasons, the petition for writ of mandamus will be summarily dismissed.

Under 28 U.S.C. § 1361, a district court has "jurisdiction over a mandamus action to

compel an employee of the United States to perform a duty owed to the plaintiff." Taylor v.

Hayman, 435 F. App'x 62, 63 (3d Cir. 2011). In this case, however, petitioner seeks an order to

compel state officials to perform an act. Such an order would not fall within this Court's

mandamus jurisdiction. See id.; see also In re Brown, 382 F. App'x 150, 150-51 (3d Cir. 2010)

("[T]o the extent that Brown seeks an order directing state courts or state officials to take action,

the request lies outside the bounds of our mandamus jurisdiction as a federal court.") (citing In re

Tennant, 359 F.3d 523, 531 (D.C. Cir. 2004)).

Accordingly, for the foregoing reasons, the petition for writ of mandamus will be

summarily dismissed. An appropriate order will be entered.

DATED: July 11, 2016

s/Robert B. Kugler ROBERT B. KUGLER

United States District Judge

2